

2 Am. Jur. 2d Administrative Law § 2

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Administrative Law

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I. Introduction

A. In General

§ 2. Concern with private and public rights

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West's Key Number Digest

West's Key Number Digest, [Administrative Law and Procedure](#)  2.1, 3

Because administrative agencies serve in part to effectuate the constitutional obligation of the executive branch to see that the laws are faithfully executed, the public interest is an added dimension in every administrative proceeding.¹ While sometimes the language of “private rights” is used in the administrative context, this language may simply signify a policy relevant to administrative law encompassing both public and private rights.²

In essence, the public-rights doctrine reflects a pragmatic understanding that when Congress selects a quasi-judicial or administrative method of resolving matters that could be conclusively determined by the executive and legislative branches, the danger of encroaching on the judicial powers is less than when private rights which are normally within the purview of the judiciary are relegated as an initial matter to administrative adjudication.³ Where private, common-law rights are at stake, the courts’ examination of the congressional attempt to control the manner in which those rights are adjudicated will be searching.⁴ However, Congress may create a private right that is so closely integrated with a public regulatory scheme as to be a matter for agency resolution with limited involvement by the federal judiciary.⁵ These separation-of-powers concerns are diminished where parties are not required to but merely have the option of proceeding in an administrative forum.⁶ In addition, when an agency refuses to act, it generally does not exercise its coercive power over an individual’s liberty or property rights and thus does not infringe upon areas that courts often are called upon to protect.⁷

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Footnotes

¹ City of Hackensack v. Winner, 82 N.J. 1, 410 A.2d 1146 (1980).

² In re St. Joseph Lead Co., 352 S.W.2d 656 (Mo. 1961).

³ Commodity Futures Trading Com’n v. Schor, 478 U.S. 833, 106 S. Ct. 3245, 92 L. Ed. 2d 675 (1986); Thomas v. Union Carbide Agr. Products Co., 473 U.S. 568, 105 S. Ct. 3325, 87 L. Ed. 2d 409 (1985).

§ 2. Concern with private and public rights, 2 Am. Jur. 2d Administrative Law § 2

⁴ [Commodity Futures Trading Com'n v. Schor](#), 478 U.S. 833, 106 S. Ct. 3245, 92 L. Ed. 2d 675 (1986).

⁵ [Thomas v. Union Carbide Agr. Products Co.](#), 473 U.S. 568, 105 S. Ct. 3325, 87 L. Ed. 2d 409 (1985).

⁶ [Commodity Futures Trading Com'n v. Schor](#), 478 U.S. 833, 106 S. Ct. 3245, 92 L. Ed. 2d 675 (1986).
As to the separation of powers of government in this context, see §§ 59 to 61.

⁷ [Heckler v. Chaney](#), 470 U.S. 821, 105 S. Ct. 1649, 84 L. Ed. 2d 714 (1985).

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